

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO DIVERSIFIED	)	
OPERATIONS OF LOCAL EXCHANGE	)	ADMINISTRATIVE
TELEPHONE COMPANIES	)	CASE NO. 340

O R D E R

This matter arising upon petition of Highland Telephone Cooperative, Inc. ("Highland Telephone") filed December 20, 1991 pursuant 807 KAR 5:001, Section 7, for confidential protection of Exhibits 1 and 5 of its responses to the Commission's Order of October 25, 1991 on the grounds that disclosure of the information is likely to cause Highland Telephone competitive injury, and it appearing to this Commission as follows:

Highland Telephone is a cooperative telephone company providing telecommunications services to its members. In order to make available cellular telephone service to its membership in the Tennessee Rural Service Area No. 3, Highland Telephone has invested in the Tennessee RSA No. 3 Limited Partnership as a limited partner. The information sought to be protected concerns Highland Telephone's investment in that partnership.

The information sought to be protected is not known outside of Highland Telephone's business and is known only by its employees who have a business need to know the information. Highland Telephone maintains that disclosure of the information is likely to cause it substantial competitive injury.

Information filed with the Commission is required by KRS 61.872(1) of the Kentucky Open Records Act to be maintained for public inspection unless specifically exempted by statute. Exemptions from disclosure are provided by KRS 61.878(1). That section of the statute exempts 10 separate categories of information. One of the exemptions included in Subparagraph (b) of that section is for commercial information confidentially disclosed to a public agency. To qualify for this exemption, it must be established that the information is not publicly available and that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Exhibit 1 of Highland Telephone's responses to the Commission's Order reflects Highland Telephone's current investment in Tennessee RSA No. 3 Limited Partnership and its anticipated investment in the limited partnership over the next two years. Public utilities are required to include such information in their periodic reports filed with the Commission which are a matter of public record. Therefore, the same information is publicly available through other sources and is not entitled to protection as confidential.

Exhibit 5 contains excerpts from the minutes of the board of directors meetings of Highland Telephone relating to plans of the

limited partnership to offer service in Rural Service Area No. 3. The information provided by the minutes is too general in nature to be of benefit to competitors and would have no competitive value. Therefore, the information should not be protected as confidential.

This Commission being otherwise sufficiently advised,

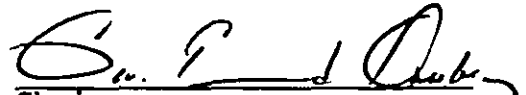
IT IS ORDERED that:

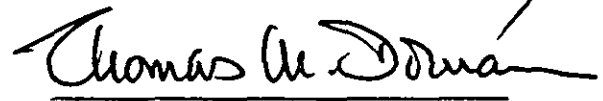
1. The petition to protect as confidential Exhibits 1 and 5 filed in response to the Commission's Order of October 25, 1991 be and is hereby denied.

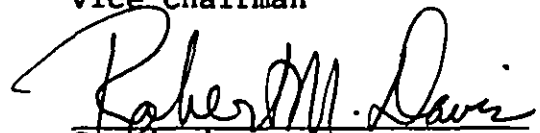
2. Exhibits 1 and 5 shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record.

Done at Frankfort, Kentucky, this 11th day of February, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director